

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JAMES CORNELIUS BROWN,

Petitioner,

Case No. 19-cv-10975

Hon. Matthew F. Leitman

v.

MICHAEL BURGESS,

Respondent.

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**ORDER GRANTING IN PART PETITIONER'S  
MOTION TO FILE A SUR-REPLY (ECF No. 21)**

Petitioner James Cornelius Brown is a state inmate in the custody of the Michigan Department of Corrections. On April 1, 2019, Brown filed a *pro se* petition for a writ of habeas corpus in this Court pursuant to 28 U.S.C. § 2254. (*See* Pet., ECF No. 1.) In the petition, Brown seeks relief from his state-court convictions of four counts of first-degree murder; four counts of disinterment, mutilation, defacement, or carrying away of a human body; and two counts of arson. (*See id.*) Respondent filed an answer to the petition on October 8, 2019. (*See* Ans., ECF No. 9.)

On July 28, 2021, Brown filed a motion to amend the Memorandum of Law that he submitted with his petition. (*See* Mot., ECF No. 17.) The Court granted that motion on December 8, 2021. (*See* Order, ECF No. 18.) In its order granting

Brown's motion, the Court provided that "Respondent may raise any and all arguments in response to Brown's amended memorandum (including but not limited to the argument that Brown's new legal arguments are time barred) in a supplemental answer to the petition." (*Id.*, PageID.4037.) Respondent filed that supplemental answer on February 7, 2022. (*See* Supp. Ans., ECF No. 20.)

Now before the Court is Brown's motion to file a sur-reply or to strike Respondent's supplemental answer. (*See* Mot., ECF No. 21.) In the motion, Brown asserts that Respondent's supplemental answer is "littered with new submissions and arguments intentionally designed to mislead the Court." (*Id.*, PageID.4052.) He therefore asks the Court to either consider the sur-reply arguments presented in his motion or strike Respondent's supplemental answer from the record. (*See id.*, PageID.4060.)

The Court has carefully reviewed Brown's motion, and while it declines to strike Respondent's supplemental answer, it will **GRANT** Brown's motion in part and consider the motion as a sur-reply in further support of his habeas petition.

**IT IS SO ORDERED.**

s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: May 12, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 12, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager  
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